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This paper examines the theoretical and empirical argument for moving away from residential placement for juvenile offenders. To that end, the use of residential placement for juvenile offenders and incarceration for adult offenders are compared to shed light on the inconsistencies between rhetoric and actual practices as related to the deterrence theory. While residential placement and incarceration are generally regarded as two separate mechanisms, the literature suggests that residential placement is counterproductive and the U.S. must continue to reassess its approach to juvenile offending.

Keywords: community treatment, deterrence, juveniles, residential placement, incarceration

When there is an increase or perceived increase in crime many blame the rehabilitative goals of the justice system, which is seen as having responded with a "slap on the wrists" for dangerous criminals (Bernard, 1992). During the mid-1980s and early 1990s, the seriousness and frequency of juvenile offending increased, influencing lawmakers to pass laws supporting harsher sanctions for juvenile offenders. As such, the 1980s marked the start of the "get-tough" era where there was a shift in emphasis from rehabilitation to punishment. In response to tougher sanctions, additional residential facilities were created for juvenile offenders. Incarceration is commonly regarded as a corrective response with the potential to influence an individual's behavior through rehabilitation and/or deterrence (Sweeten & Apel, 2007). While many researchers have examined the impact of incarcerating adults in jails and prisons on behavior and/or crime, very few have examined the nexus between residential placement and delinquency.

On the association between incarceration and crime there is a negative relationship, whereby an increase in incarceration is related to a decrease in the crime rate (examples include Devine, Shelley, & Smith, 1998; Johnson & Raphael, 2010; Marvell & Moody, 1994, 1997, 1998; Spelman, 2000a, 2000b, 2005; Washington State Institute for Public Policy, 2003). Other researchers (for example, DeFina & Arvanites, 2002; Stahlkopf, Males, & Macallair, 2010) have highlighted the complex relationship between incarceration and crime as well as questioned the deterrent effects of incarceration. With many empirical studies highlighting the effectiveness of incarceration (Devine, Shelley, & Smith, 1998; Johnson & Raphael, 2010; Marvell & Moody, 1994, 1997, 1998; Spelman, 2000a, 2000b, 2005; Washington State Institute for Public Policy, 2003), it is not surprising that incarceration has been the primary policy for addressing crime in the U.S. It is regarded as having value as both a specific and a general deterrent. Given the purported success of incarceration for adult offenders, it was only a matter of time before lawmakers advocated similar measures for juvenile offenders.

Deterrence Theories

Although juvenile residential placement is often justified on rehabilitation grounds, in actual practice, the focus has shifted to placement for deterrent purposes since the 1980s. Deterrence is theoretically informed by the classical school of thought, which has its origin in the writings of 18th-century philosophers, Cesare Beccaria and Jeremy Bentham (Akers & Sellers, 2009). They argued that everyone has some level of free will in making decisions and that punishment can deter individuals from criminal behaviors, based on the certainty, swiftness (celerity) and severity of the punishment. Deterrence is one of the oldest and most prevalent strategies for crime prevention. Proponents of the deterrence theory posit that, if individuals believe that the legal punishment exceeds the probable gain from offending, then they will not commit crimes (Akers & Sellers, 2009). Deterrence then, is deeply rooted in choice (Hoffmann, 2011). In other words, individuals choose to offend based on the benefits and costs of offending. Those individuals who offend may then be punished and/or incapacitated based on the offense committed. Incapacitation is a non-behavioral mechanism, usually in the form of incarceration and is aimed at preventing active offenders from reoffending (Nagin, 1998).

Nagin (1998) identified three main categories of deterrence studies - interrupted time-series, ecological, and perceptual (Nagin, 1998). Interrupted time-series studies analyze the outcomes of both directed and specific policy interventions such as "police crackdowns on open-air drug markets" (Nagin, 1998). These studies generally suggest that intervention has some temporary effects. Ecological studies employ natural variations in sanctions and crime rates across time and space to estimate deterrence effects. These types of studies search for a negative relationship between crime rates and sanctions for deterrence effects. More recent deterrence literature focuses on the third type, perceptual studies. Perceptual studies are those that attempt to link perceptions of risk and of the severity of punishment to self-reported delinquency and crime (Nagin, 1998). These data generally come from surveys. Regardless of the method, the aim is to prove the presence (or lack thereof) of deterrence effects.

Deterrence may also be classified based on the severity of the punishment leading to a subsequent decrease in crime or offending. This remains a challenge because the response to sanctions in the general population includes an assessment of how people rationalize certain behaviors. There is also the challenge of observing a non-effect (the amount of crime that

would have occurred but did not given the sanction). Often the sanctions under examination are capital punishment or lengthy incarceration. While some researchers find supporting evidence for the deterrence and incapacitation theories (for example, Drago, Galbiatis, & Vertova, 2009; Levitt, 1998; Sweeten & Apel, 2007), others do not (examples include Dawkins & Sorensen, 2015; Kellermann, Fuqua-Whitley, Rivara, & Mercy, 1998; Kessler & Greenberg, 1981; Kovandzic &Vieraitis, 2006; Stahlkopf, Males, & MaCallair, 2010).

Complicating the application of deterrence and incapacitation theories to juveniles is research that finds that juveniles are less rational decision makers (Hoffmann, 2011; Ward, n.d.). Therefore, the applicability of these theories to juvenile behavior is questionable. Perhaps, the reality lies somewhere in between and juveniles are less rational than adults but not wholly irrational decision makers. Thus, residential placement may deter some juveniles from committing similar offenses.

Implicit in the idea of incarceration is the hope that such punishment will have rehabilitative effects on the offender. Rehabilitation is a complicated concept that focuses on the character of an offender and to some extent the offense. It aims to reform an offender's character and outlook on society so that he or she will refrain from committing future offenses while functioning in society. Prior to the mid-1970s, rehabilitation was a main part of the U.S. incarceration policy, and offenders were encouraged to develop certain social skills necessary for reintegration into society (Benson, 2003). Since the beginning of the 1970s, the rehabilitative ideal has been in decline and was dismissed by many as ineffective (Martinson, 1974). Ideally, rehabilitation is a goal of corrections, and it has experienced a resurgence in support in recent years; however, punishment remains as a part of the justice response.

The "Get-tough" Era

As a nation, the U.S. implemented several "get tough" measures at the height of the crack-cocaine epidemic in the mid-1980s. The "War on Drugs" was intensified and the message was evident- those found guilty would be punished harshly and to the full extent of the law. As mentioned previously, during this same period, juvenile offending increased significantly, both in severity and frequency. The disturbing increases in juvenile offending contributed to the popularization of terms such as "super-predators" and "time ticking bombs" which became the headlines for the juvenile delinquency problem (Levitt, 1998). Chung, Little, Steinberg, and Altschuler (2005) noted that the increase in violent offending among juveniles fed into the perception that juveniles were involved in more serious crimes. This shifted the nation's focus to juvenile offenses. The growth and changes in juvenile delinquency resulted in more focus on the offense rather than the offender. More recently, in 2012, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) reported an estimated 1.8 million arrests of juveniles in 2009. During the same period, about 49,000 juveniles were arrested for aggravated assault. With respect to murder, the estimated number of juvenile offenders increased by more than 30% between 2003 and 2006, before experiencing a 10% decline in 2009. Thus the 10% decline was much smaller than the 67% decline in juvenile murders from 1994 to 2003 (National Center for Juvenile Justice, 2014). The Campaign for Youth Justice (2012) noted that, each year, an estimated 1.7 million cases are handled in U.S. juvenile courts. These cases (approximately 4,600 each day) usually focus on juveniles charged with a delinquency (the equivalent to crimes committed by adults). Clearly, the issue of juvenile delinquency is a major concern for not just the juvenile justice system, but also for society and legislators. It is this growing concern that has led lawmakers to believe in instituting measures or policies that are expected to alter the attitudes and behaviors of youth. To that end, a number of correctional programs have been put in place to address the juvenile delinquency concerns, increased use of residential placement being only one of them.

Residential Placement

Residential placement is any placement outside of the youth's home. It has been a treatment response for youth deemed to have emotional disturbances and mental health diagnoses including substance abuse (Little, Krohn, & Thompson, 2005). As a costly option, it is normally reserved for youth suffering significantly from substance abuse or very disruptive psychiatric problems leading to their being too unruly to be treated in the general community (Justice Policy Institute, 2009). The *residence* is an environment in which minors are placed with other minors for " at least one night" with the objective of meeting certain needs, including educational, health, and/or other developmental (Little, Krohn, & Thompson, 2005). Herein, *minor* refers to an individual under the age of 18. Residential placement/facilities can be secure or non-secure based upon a number of factors regarding the offender's personal characteristics and/or offense. Whether the residential facility is secure or non-secure it is expected to be rehabilitative; offering support and helping juveniles learn from their mistakes (Justice Policy Institute, 2009).

Residential placement, ideally, is intended to be a place of care and support, which should foster youth development. The underlying rationale for the use of residential placement is also inherent in the philosophy upon which the juvenile court was originally founded; the idea that juveniles should receive individualized treatment. At the core, then, residential placement for juvenile delinquents is intended to correct negative and disruptive behavior that may adversely affect the future choices and options of minors. As such, at least theoretically, the focus is intended to be on juvenile delinquents/offenders as oppose to their offenses. With such a focus, offenders are seen as being amenable to treatment and their best interest is given precedence over punishment. In this sense, the use of residential placement represents a crossroad for the juvenile offender because it is the last phase of the juvenile justice system before the offender is transferred to the criminal justice system. Any residential restriction is a punishment (Hudson, 2003). OJJDP (n.d.) suggests that the most severe punishment the juvenile court can impose involves limiting a juvenile's freedom through residential placement.

Based on a biennial survey on Juvenile Residential Facility Census, which is conducted by the OJJDP, there are more than 900 facilities identified as residential treatment centers/facilities (Hockenberry, Sickmund, & Sladky, 2009). In these facilities, there are approximately 80,000 juveniles housed (Sickmund, 2010), but the Justice Policy Institute (2009)

suggested that on any given day, there are about 90,000 juveniles held in residential facilities throughout the nation. The Children's Defense Fund-Ohio (2012) suggests there are about 70,000 juveniles in residential facilities while Hockenberry (2014) finds about 61,000 being held both pre-adjudication and pre-disposition in the U.S.

Of course, there is no perfect system or approach for dealing with juvenile delinquents and, admittedly, the actual operation of these facilities is not uniform in or across states. Overall they are comparable to prisons (Justice Policy Institute, 2009). Given that residential placement for juvenile offenders is comparable to adult incarceration (prison/jail), the impact of incarceration on delinquency should be comparable. Likewise, the underlying rationale for incarceration is similar to that of residential placement. The assumption is that such placement is intended to disrupt delinquent behavior and prevent future recidivism. The effectiveness of incarceration has been examined both from a specific and general deterrence perspective, but the effectiveness of residential placement has not been subjected to such empirical tests or theoretical review.

Similarities between Residential Placement and Incarceration

Historically, there were no legal distinctions between juvenile and adult offenders, nor were there separate justice systems in the United States until the 1800s (Hoffmann, 2011). Much of the changes in the juvenile justice system have mirrored changes in the adult criminal justice system. This includes the shift from a rehabilitation focus prior to the 1970s to one of deterrence and incapacitation in more recent times. Since the "get-tough" movement of the 1980s, the twenty-first century has brought a return to rehabilitation as a focus for juveniles with a greater emphasis on community treatment as opposed to residential placement in the interest of using the least restrictive appropriate response. Findings provided by the Survey of Youth in Residential Placement (SYRP) on a nationally represented sample of 7,073 youth in custody in 2003 reveal that juvenile facilities vary in organizational complexity, layout, and size (Sedlak & McPherson, 2010). The findings also revealed that youth in residential facilities have committed a number of different offenses, and offenders were comparable from program to program. Further, some facilities housed juveniles because the juvenile court wanted to protect them from abuse or neglect, although some have been placed in these facilities voluntarily by family members for treatment. Of the youth in residential facilities, the survey revealed that approximately 59% indicated it would take more than an hour for family members to visit them whereas 28% stated it would take more than three hours for their family members to visit them (Sedlak & McPherson, 2010). Evidence indicates that most of the juveniles held in residential facilities had been adjudicated for nonviolent offenses (Justice Policy Institute, 2009). Therefore, it is concerning to find that some of the common disciplinary measures include both manual labor and solitary confinement. SYRP findings indicate that one-third of juveniles in custody have reportedly been isolated, that is, being confined to their rooms with no direct contact with other residents, or being locked up alone. Other juvenile delinquents would sometimes be transferred to another facility.

Based on national data, the Justice Policy Institute (2009) found that roughly 36% of all juvenile facilities are near or exceeding maximum capacity. Evidence of suicidal behavior, psychiatric problems, other stress-related illnesses, and widespread abuse (Justice Policy Institute, 2009; the Annie E. Casey Foundation, 2011) found in these residential facilities undermine any rehabilitative intentions. They exist in large measure then for community protection. In reality, however, many of these issues are a mirror image of what transpires in the criminal justice system where many offenders suffer from similar problems, including suicidal behavior and psychiatric issues, and are also incarcerated for nonviolent offenses. The Sentencing Project (2014) reported that approximately 47% of the state population in 2011 were there for a nonviolent offense.

If residential placement operates as initially planned, it can certainly address the juvenile delinquency problem. For example, issues such as cognitive behavioral skills, substance abuse, and emotional health, as well as attitude problems are likely to impede development and may be addressed in residential facilities. Residential staff are also expected to supervise and protect juveniles from any potential harm (both from themselves and fellow residents), treat them humanely and help them to prepare for reintegration into their communities.

Studies linking Incarceration to Deterrence

Regarding the incarceration of adults Marvell and Moody (1994), Besci (1999), Levitt (2001) and Spelman (2005), found that, as incarceration increases, there is a decrease in the crime rate. Ritchie (2011) reviewed the evidence on imprisonment and deterrence, and concluded that despite an inverse relationship, the relationship between incarceration and crime is statistically insignificant. Recent evidence indicates there is no significant impact, or at least indicates that increased use of incarceration leads to a decrease in the inverse relationship over time (Kovandzic & Sloan, 2002; Kovandzic & Vieraitis, 2006; Liedka, Piehl, & Useem, 2006), while some of the other studies suggest no significant findings or a decrease in crime type (for example, a decrease in property but not in violent offenses) (DeFina & Arvanites, 2002; Donhue & Levitt, 2001; Raphael & Winter-Ebmer, 2001). Researchers such as Blumstein (2008) claimed that incarceration is effective for certain types of crimes and that may help explain the disparities in some findings. Dawkins and Sorensen (2015) found that an increase in the use of residential placement also leads to an increase in property offenses, which could be explained by replacement offenders. As a result, the findings from the study could therefore be nullified when considering replacement offenders. In sum, these studies in regard to incarceration and deterrence suggest the debate is far from settled.

Paucity of Research on Residential Placement and Deterrence

Levitt (1998) examined the relationship between juvenile offending and punishment. In doing so, he used an economic approach to assess the changes in expected punishment and the corresponding influence on subsequent criminal behavior. He used state-level panel data with about 2-year intervals from 1978 to 1983 to approximate the response of

juvenile offending to criminal justice punishment while keeping certain factors such as percentage Black and the relative punitiveness by cohort constant. His findings revealed that it is effective to place a juvenile in confinement as a crime fighting strategy. Levitt also found that both juveniles and adults respond similarly to punishment. He suggested that part of the deterrence argument rests on the notion that more severe penalties would send a message to offenders that "crime does not pay," thereby lessening future criminal participation. In contrast to this position, is the notion that confinement can further criminal involvement. Levitt found evidence suggesting that juvenile offending is responsive to more severe penalties. Overall, Levitt's findings offer support to the tenets of the deterrence and incapacitation theories (mainly the severity of punishment).

Other researchers such as Kellermann, Fuqua-Whitley, Rivara, and Mercy (1998) evaluated crime prevention strategies in an attempt to understand the nature of youth violence, and found that results for many have been disappointing. These researchers acknowledged that while there were no specific examinations of juvenile justice strategies, based on their review of programs, the evidence indicates that incarcerating juvenile offenders is counterproductive and incarceration might only work on a short-term basis, not long-term. Similarly, Dawkins and Sorensen (2015) in a study on the impact of residential placement on juvenile offending found confinement to be counterproductive, that is, they did not find support for the deterrence and incapacitation theories or evidence that confinement (residential placement) subsequently reduces delinquent involvement. These findings appear to undermine the tenets of the deterrence and incapacitation theories.

The conflicting findings on incarceration and crime may be attributed in part to the variations across and within states in residential placements. There are also broader contextual factors that could impact the crime rate. In regard to juvenile offenders, findings and studies about the deterrent effects for adults are expected to result in similar deterrent effects for juveniles because the deterrence theoretical framework is the same. Therein is the goal of specific deterrence where it is expected that punishment will deter the offender from committing future offenses, and general deterrence (to deter other potential offenders). Relatedly, lawmakers and many in the public are also interested in sending a message to potential offenders that crime "does not pay" with sufficiently severe penalties. This has been a part of the "get-tough" measures of the mid-1980s and early 1990s.

In more recent years several researchers have advocated for a shift from confinement to community-based treatment for juvenile offenders. This renewed approach is based on the lack of evidence linking public safety directly to increases in the incarcerated juvenile population (Justice Policy Institute, 2009). The Justice Policy Institute (2009) also suggested that states with an increased incarcerated juvenile population were less likely to see significant decreases in crime when compared to states that lowered their incarcerated juvenile population. The Annie E. Casey Foundation (2011) suggested that based on several studies, in general, juvenile confinement is not as effective in reducing juvenile offending as other strategies. Dawkins and Sorensen's (2015) study utilized random effects to estimate the impact of residential placement on juvenile delinquency. In doing so, they used state-level panel data from 1997 to 2011, with roughly 2-year intervals, and variables such as African American male youth, children living below the poverty line, sworn police office per capita, region (states' location- south vs other), and high school graduation rates were examined. They found that using residential placement to address juvenile offending is ineffective. Such a finding appears to be consistent with recent studies that seemingly question the efficacy of incarceration as a deterrent. For example, one report out of Texas by Fabelo, Arrigona, Thompson, Clemens, and Marchbanks (2015) indicates there has been a significant drop in crimes committed by youth after its shift from state-run detention facilities for youth to a community-centered approach. Overall these recent findings support Miller's (1998) call, nearly two decades earlier, for less residential placement and the need to return juveniles to their communities.

Conclusion

It is expected that if incarceration has a real deterrent effect on crime, then it should be evident in both the short- and long-term, and that was not found in the Dawkins and Sorensen's (2015) study. Consistent with such a finding is the recent trends in Texas' Department of Juvenile Justice (2010 and later) that emphasize greater use of community services instead of residential placement, which to date have yielded favorable results (the Annie E. Casey Foundation, 2011; Fabelo, Arrigona, Thompson, Clemens, & Marchbanks, 2015; the Justice Policy Institute, 2009). Overall there has been a decline in juvenile offending rates (Johansson, 2013), which some have attributed to either reforms or community-based treatment (Fabelo, Arrigona, Thompson, Clemens, & Marchbanks, 2015), while a recent National Center for Juvenile Justice (2014) report suggests the reasons for the decline are unclear.

Juveniles differ from adults in their capacity to weigh the consequences of their actions. Other researchers have also pointed out; juveniles generally see their behaviors as "experimental" or "living in the moment" (Hoffmann, 2011). As the frontal lobe of the brain continues to develop until individuals are into their twenties, the "planning skills," rational and conscious thought in juveniles remain questionable (Hoffmann, 2011 citing Segalowitz & Davis, 2004). Therefore, the rational choice model's applicability to juveniles' decision-making in the real-world appears problematic. As such, diminished capacity and culpability are of grave concerns, especially among juveniles. These factors certainly undermine the deterrence and incapacitation theories based on youth brain research, despite the rhetoric by some in the public and the "get-tough" policies advocated by lawmakers. The application of the deterrence and incapacitation theories to juvenile offenders, however, is necessary and should continue to be evaluated by different researchers.

The problem of juvenile delinquency is of concern, and must be addressed; however, the use of residential placement as a deterrent-based juvenile justice response is inadequate. Labeling theorists, such as Braitwaite (1989), suggest harsh sanctions are unlikely to be effective. These theorists claim that punitive sanctions such as residential placement (both secure and non-secure) will unfairly interrupt normal development and the socialization process rather than serving as a positive

reinforcement. Residential placement should be regarded as a last resort to addressing delinquency because of its potential to result in greater harm and the increased likelihood that juveniles are more likely to enhance their delinquent skills due to its criminogenic (juveniles are surrounded by negative influences such as other delinquent peers) environment, whereas family support and community treatment are regarded as more positive avenues. The Correctional Association of New York (2010) has also found that juveniles released from detention are more likely to recidivate than those given alternative punishment in the community. Therefore, the juvenile justice system must set realistic goals for both juveniles and the justice system that can result in measurable outcomes. The OJJDP has undertaken a number of initiatives to find alternatives to residential facilities for juveniles in recent years, but more needs to be done to address the conditions of residential placement that are still being used to house juvenile offenders including those such as chronic and incorrigible offenders for whom residential placement is necessary. While recent data (Hockenberry, 2014; Sickmund, Sladky, Kang, & Puzzanchera, 2015) indicate less frequent use of residential placements, there is room for the trend to continue nationwide in the best interest of the child and society.

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